

REMARKS

Claims 1, 3-16 and 18-29 are pending in the Application of which claims 1, 11, 16 and 26 are independent.

A Declaration pursuant to 37 C.F.R. 1.131 is being submitted together with this response to antedate the primary reference cited against the claims of the Application.

Evidence of conception and diligence leading to the filing of the Application are also enclosed. The evidence include an Invention Proposal and email correspondence between the primary inventor and the drafting attorney from a date before the effective date of the antedated reference and the date of filing of the Application on December 9, 2003.

Claim Rejections - 35 USC 102(e) and 35 USC 103

Claims 1, 11, 12 and 16 are rejected based on 35 USC 102(e) as allegedly anticipated by Bellegarda, U.S. Patent Application Publication 2005/0044487.

Claims 4-7, 10, 13, 18, 20-22 and 27 are rejected as allegedly unpatentable over Bellegarda and in view of Foote, "Automatic Auto Segmentation Using a Measure of Audio Novelty," Proc. IEEE, IEEE Intl. Conf. on Multimedia and Expo, 2000. Claims 14 and 15 are rejected as allegedly unpatentable over Bellegarda and Foote and further in view of Platt, U.S. Patent 6,993,532. Claims 8 and 23 are rejected as allegedly unpatentable over Bellegarda and Foote and further in view of Schwanke, U.S. Patent 5,485,621. Claim 26 is rejected as allegedly unpatentable over Bellegarda, Platt and Foote and further in view of Schwanke. Claims 28-29 are rejected as allegedly unpatentable over Bellegarda and in view of Gargi, U.S. Patent Application Publication 2005/0027712.

Applicants respectfully traverse these rejections in view of the enclosed Declaration and the supporting evidence.

The Date of Invention Precedes the Date of Bellegarda

Applicants submit that the 35 U.S.C. 102 reference, Bellegarda, which is also the first cited reference in the 35 U.S.C. 103 rejections, is disqualified as a valid reference for either anticipation or obviousness because the date of the invention actually predates Bellegarda.

Bellegarda has a filing date of August 21, 2003. The specification of the Bellegarda and a reference to Public PAIR do not reveal any claims of priority by this application to an earlier filed application. As such, the effective priority date of Bellegarda appears to be its filing date of August 21, 2003.

Applicants are enclosing a Declaration pursuant to 37 C.F.R. 1.131 that establishes the date of the invention that is the subject matter of the current Application, to a date at least prior to the date of filing of Bellegarda on August 21, 2003. Evidence of conception and diligence leading to constructive reduction by filing of the Application at the U.S. Patent and Trademark Office are enclosed together with the Declaration.

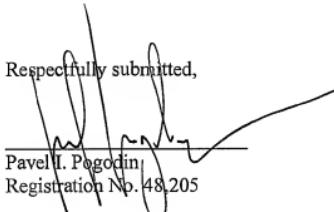
Accordingly, Bellegarda may not be properly used as a reference against the claims of the current Application. Applicants request withdrawal of both anticipation and obviousness rejections of the claims based on Bellegarda and allowance of claims 1, 4-8, 10-16, 18, 20-23, and 25-29.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
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